

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

A.W. IRREVOCABLE SPECIAL NEEDS TRUST and A.W., a minor, by and through her guardian ad litem,
Thomas M. Stern,)
Plaintiffs,)
v.)
LANIER M. CANSLER, in his official capacity as Secretary of the North Carolina Department of Health and Human Services and CRAIGAN L. GRAY, M.D., in his official capacity as Director of the Division of Medical Assistance of the North Carolina Department of Health and Human Services,)
Defendants.)

1:10CV364

O-R-D-E-R

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on July 19, 2011, was served on the parties in this action. No objections were filed within the time limits prescribed by § 636.

The Court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Defendants' motion to dismiss [Docket No. 14] is **GRANTED** as to Plaintiffs' third claim for relief in its entirety, and **GRANTED**

with respect to Plaintiffs' first and second claims for relief to the extent those claims are based upon a violation of 42 U.S.C. § 1396a(a)(18), but otherwise is **DENIED**.

This the 25th day of August, 2011.



UNITED STATE DISTRICT JUDGE